

§ 107.1540

13 CFR Ch. I (1–1–00 Edition)

(iii) Add the result to the amount you computed in paragraph (h)(1) of this section.

(3) Reduce the Profit Participation computed in paragraphs (h)(1) and (h)(2) of this section by any amounts of Profit Participation that you distributed or reserved for distribution to SBA, or its designated agent or Trustee, for any previous interim period(s) during the fiscal year. The result is SBA's Profit Participation (unless it is less than zero, in which case SBA's Profit Participation is zero).

(i) *Allocation of Profit Participation.* Before any Distribution and in any case within 120 days following the end of your fiscal year, you must add the amount of Profit Participation computed under this §107.1530 to the Profit Participation Account. You must reserve funds equal to this amount for distribution to SBA, or its designated agent or Trustee; you may not reinvest these funds or use them for any other purpose.

[61 FR 3189, Jan. 31, 1996; 61 FR 41496, Aug. 9, 1996, as amended at 63 FR 5871, Feb. 5, 1998]

§ 107.1540 Distributions by Licensee— Prioritized Payments and Adjustments.

After you compute Prioritized Payments and Adjustments under §107.1520, you must distribute them in accordance with this §107.1540. You must notify SBA of any planned distribution under this section 10 business days before the distribution date, unless SBA permits otherwise.

(a) *Requirement to distribute Prioritized Payments and Adjustments.* This paragraph (a) applies only if you satisfy the liquidity requirement in §107.1505. All Distributions under this paragraph (a) go to SBA or its designated agent or trustee.

(1) You must distribute the balance in your Distribution Account from §107.1520 annually on the first or second Payment Date following your fiscal year end, and on any date when you are making any other Distribution.

(2) You may distribute all or part of the balance in your Distribution Account on any Payment Date regardless of whether you are making any other Distribution on that date.

(b) *Additional requirement for Licensees with undistributed Prioritized Payments.* This paragraph (b) applies if you do not distribute the full amount in your Distribution Account by the second Payment Date following the end of your fiscal year. At the end of each fiscal quarter, until you reduce the balance in your Distribution Account to zero, you must:

(1) Do all the steps in §107.1520; and

(2) Distribute the balance in your Distribution Account on the next Payment Date following the end of your fiscal quarter, provided you satisfy the liquidity requirement in §107.1505.

[61 FR 3189, Jan. 31, 1996, as amended at 63 FR 5871, Feb. 5, 1998]

§ 107.1550 Distributions by Licensee— permitted “tax Distributions” to private investors and SBA.

If you have outstanding Participating Securities or Earmarked Assets, and you are a limited partnership, “S Corporation,” or equivalent pass-through entity for tax purposes, you may make “tax Distributions” to your investors in accordance with this §107.1550, whether or not they have an actual tax liability. SBA receives a share of any tax Distribution you make. This section tells you when you may make a “tax Distribution” and how to compute it. You must notify SBA of any planned distribution under this section 10 business days before the distribution date, unless SBA permits otherwise.

(a) *Conditions for making a tax Distribution.* You may make a tax Distribution only if:

(1) You have paid all your Prioritized Payments, Adjustments, and Charges, so that the balance in both your Distribution Account and your Accumulation Account is zero (see §107.1520).

(2) You satisfy the liquidity requirement in §107.1505.

(3) The tax Distribution does not exceed your Retained Earnings Available for Distribution.

(4) The tax Distribution does not exceed the Maximum Tax Liability from paragraph (b) of this section.

(b) *How to compute the Maximum Tax Liability.* (1) You may compute your Maximum Tax Liability for a full fiscal